

# **CORRECTED FISCAL NOTE**

## **SB 2513 - HB 2653**

April 13, 1998

**SUMMARY OF BILL:** Makes determinations of medical necessity or decisions about the appropriateness of patient care constitute the practice of medicine.

On February 14, we issued a fiscal note, which indicated no significant increase in capitation rates from potential damages awarded as the result of court cases where a managed care organization was sued, under the provisions of the bill, for medical malpractice. This impact assumed managed care organizations were not making decisions, which would render them liable in most cases. Consideration was not given to actions managed care organizations may take to avoid potential damages from litigation if the bill were enacted.

As a result of testimony presented to the TennCare Oversight Committee, we believe that increased occurrences of litigation, coupled with additional preventive measures which managed care organizations may take to prevent the award of damages, could be sufficient enough to result in a significant increase in cost to such plans.

### **ESTIMATED FISCAL IMPACT:**

#### **Increase State Expenditures - Exceeds \$100,000**

Estimate assumes managed care organizations will incur increased cost from litigation and may restrict or eliminate determinations of medical necessity to comply with the provisions of the bill and avoid potential damages from lawsuits. Restricting such determinations of medical necessity could have the effect of significantly increasing cost to managed care organizations, which could ultimately lead to an increase in capitation rates paid under the TennCare Program. The amount of such increase cannot be determined but is estimated to be significant.

### **CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James A. Davenport, Executive Director

**SB 2513 - HB 2653(CORRECTED)**